IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO
MAY 28 2009
MATTHEW J. DYKMAN
CLERK

DELFINO PEDROZA and LILIANA ANDRADE,

Plaintiffs,

vs.

No. CIV 07-0591 JB/RHS

LOMAS AUTO MALL, INC.; M.D. LOHMAN, d/b/a LOHMAN MOTORS; USAA CASUALTY INSURANCE COMPANY d/b/a USAA; and INDEPENDENT AUTO DEALERS SERVICE CORPORATION, LTD.

Defendants.

SPECIAL VERDICT FORM

Motor Vehicle Information and Cost Savings Act

1. Have Plaintiffs proven their claim against Defendant Lomas Auto Mall, Inc. for violation of the Motor Vehicle Information and Cost Savings Act?

_________ Yes ____X____ No #15 #36

If your answer is "Yes," answer question #2.
If you answer is "No," skip to question #3.

2. Was this conduct of Defendant Lomas Auto Mall, Inc. a cause of any of Plaintiffs' damages?

__________ Yes __________ No

3. Have Plaintiffs proven their claim against Defendant M.D. Lohman d/b/a Lohman Motors for violation of the Motor Vehicle Information and Cost Savings Act?

_________ Yes ____X____ No

If your answer is "Yes," answer question #4.
If you answer is "No," skip to question #5.

4. Was this conduct of Defendant M.D. Lohman d/b/a Lohman Motors a cause of any of Plaintiffs' damages?

_________ Yes _________ No

Fraud

5. Have Plaintiffs proven their claim for fraud against the Defendant Lomas Auto Mall, Inc.?

_________ Yes ____X____ No #17, #18, #37

If your answer is "Yes," answer question #6.
If you answer is "No," skip to question #7.

6. Was any fraudulent conduct of Defendant Lomas Auto Mall, Inc. a cause of any of Plaintiffs' damages?

_________ Yes _________ No

7. Have Plaintiffs proven their claim for fraud against the Defendant M.D. Lohman d/b/a Lohman Motors? #18, 17, 37

____X____ Yes _________ No

If your answer is "Yes," answer question #8.
If you answer is "No," skip to question #9.

8. Was any fraudulent conduct of Defendant M.D. Lohman d/b/a Lohman Motors a cause of any of Plaintiffs' damages?

____X____ Yes _________ No

9. Have Plaintiffs proven their claim for fraud against the Defendant USAA Casualty Insurance Company d/b/a USAA ?

_________ Yes ____X____ No #20 #26 #37

If your answer is "Yes," answer question #10.
If you answer is "No," skip to question #11.

10. Was the fraudulent conduct of Defendant USAA Casualty Insurance Company d/b/a USAA a cause of any of Plaintiffs' damages?

_________ Yes _________ No

11. Have Plaintiffs proven their claim for fraud against the Defendant Independent Auto Dealers Service Corporation, Ltd.?

__________ Yes ____X____ No

If your answer is "Yes," answer question #12.
If you answer is "No," skip to question #13.

12. Was any fraudulent conduct of Defendant Independent Auto Dealers Service Corporation, Ltd. a cause of any of Plaintiffs' damages?

__________ Yes __________ No

Unfair Practices Act

13. Have Plaintiffs proven their claim against Defendant Lomas Auto Mall, Inc. for violation of the Unfair Practices Act?

__________ Yes ____X____ No

If your answer is "Yes," answer questions #14 and 15.
If you answer is "No," skip to question #16.

14. Was this conduct of Defendant Lomas Auto Mall, Inc. a cause of any of Plaintiffs' damages?

__________ Yes __________ No

15. Did Defendant Lomas Auto Mall, Inc. act willfully in violating the Unfair Practices Act?

__________ Yes __________ No

16. Have Plaintiffs proven their claim against Defendant M.D. Lohman d/b/a Lohman Motors for violation of the Unfair Practices Act?

____X____ Yes __________ No

If your answer is "Yes," answer question #17 and 18.
If you answer is "No," skip to question #19.

17. Was this conduct of Defendant M.D. Lohman d/b/a Lohman Motors a cause of any of Plaintiffs' damages?

____X____ Yes __________ No

18. Did Defendant M.D. Lohman d/b/a Lohman Motors act willfully in violating the Unfair Practices Act?

___X___ Yes __________ No

19. Was Defendant USAA Casualty Insurance Company d/b/a USAA's violation of the Unfair Practices Act a cause of any of Plaintiffs' damages?

__________ Yes ___X___ No

20. Did Defendant USAA Casualty Insurance Company d/b/a USAA act willfully in violating the Unfair Practices Act?

__________ Yes ___X___ No

21. Have Plaintiffs proven their claim against Defendant Independent Auto Dealers Service Corporation, Ltd. for violation of the Unfair Practices Act?

__________ Yes ___X___ No

If your answer is "Yes," answer question #22 and 23.
If you answer is "No," skip to question #24.

22. Was this conduct of Defendant Independent Auto Dealers Service Corporation, Ltd. a cause of any of Plaintiffs' damages?

__________ Yes __________ No

23. Did Defendant Independent Auto Dealers Service Corporation, Ltd. act willfully in violating the Unfair Practices Act?

__________ Yes __________ No

Breach of Warranty of Title

24. Have Plaintiffs proven their claim against Defendant Lomas Auto Mall, Inc. for breach of warranty of title?

#28, # 49, #50 #53

___X___ Yes __________ No

If your answer is "Yes," answer question #25.
If you answer is "No," skip to question #26.

25. Was this conduct of Defendant Lomas Auto Mall, Inc. a cause of any of Plaintiffs' damages?

____X____ Yes __________ No

26. Have Plaintiffs proven their claim against Defendant M.D. Lohman d/b/a Lohman Motors for breach of warranty of title?

__________ Yes ____X____ No

If your answer is "Yes," answer question #27.
If you answer is "No," skip to question #28.

27. Was this conduct of Defendant M.D. Lohman d/b/a Lohman Motors a cause of any of Plaintiffs' damages?

__________ Yes __________ No

Joint Enterprise

28. Do you find that there was a joint enterprise between Lomas Auto Mall, Inc. and M.D. Lohman d/b/a Lohman Motors?

__________ Yes ____X____ No #29 #30 #52

Civil Conspiracy

29. Do you find that there was a civil conspiracy between Lomas Auto Mall, Inc. and M.D. Lohman d/b/a Lohman Motors to violate the Motor Vehicle Information and Cost Savings Act?

____X____ Yes __________ No #51 #31, #32

30. Do you find that there was a civil conspiracy to commit fraud among Lomas Auto Mall, Inc., M.D. Lohman d/b/a Lohman Motors, and/or USAA Casualty Insurance Company d/b/a USAA?

__________ Yes ____X____ No

If your answer to question 30 is "yes," answer questions 31.

31. Make a check mark in the box next to name of any Defendant that you find participated in the civil conspiracy:

☐ Lomas Auto Mall, Inc.

☐ M.D. Lohman d/b/a Lohman Motors

☐ USAA Casualty Insurance Company d/b/a USAA

32. Do you find that there was a civil conspiracy among Lomas Auto Mall, Inc., M.D. Lohman d/b/a Lohman Motors, and/or USAA Casualty Insurance Company d/b/a USAA to violate the Unfair Practices Act? #51

__X__ Yes ______ No

If your answer to question 32 is "yes," answer question 33.

33. Make a check mark in the box next to name of any Defendant that you find participated in the civil conspiracy:

☑ Lomas Auto Mall, Inc.

☑ M.D. Lohman d/b/a Lohman Motors

☐ USAA Casualty Insurance Company d/b/a USAA

34. Do you find that there was a civil conspiracy between Lomas Auto Mall, Inc. and M.D. Lohman d/b/a Lohman Motors to breach the warranty of title?

______ Yes __X__ No

Compensatory Damages

Answer Question #35 only if you answered "Yes" to question 6, OR to question 8, OR to question 10, OR to question 12.

35. We find that Plaintiffs paid more than the Sierra was worth, in the amount of:

24992 − 15000 = 9,992.00

$ 9,992.00

Answer Question #36 only if you answered "Yes" to question 2, OR to question 4, OR to question 14, OR to question 17, OR to question 19, OR to question 22.

36. If you decide the Plaintiffs are entitled to any compensatory damages for humiliation and aggravation, the amount of damages to which they are entitled to fully compensate for humiliation and aggravation is:

$ 2,500.00

Answer Question #37 through #39 only if you answered "Yes" to question 6, OR to question 8, OR to question 10, OR to question 12, OR to question 14, OR to question 17, OR to question 19, OR to question 22, OR to question 25, OR to question 27.

37. If you decide that the Plaintiffs are entitled to any compensatory damages for loss of use of the Sierra, the amount of damages to which they are entitled to fully compensate for loss of use of the Sierra is: 799 x 4 = 3196.00

$ 3196.00

38. If you decide the Plaintiffs are entitled to any compensatory damages for the cost of replacement transportation, the amount of damages to which they are entitled to fully compensate for the cost of replacement transportation is:

$ Ø

39. If you decide the Plaintiffs are entitled to any compensatory damages for out-of-pocket expenses, the amount of damages to which they are entitled to fully compensate for out-of-pocket expenses is:

$ 14.95

Punitive Damages

Answer question 40 only if you answered "yes" to question 6 and awarded any compensatory damages against Defendant Lomas Auto Mall, Inc. because it committed fraud.

40. Did Defendant Lomas Auto Mall, Inc. act maliciously, recklessly, wantonly or fraudulently in committing fraud?

________ Yes ________ No

41. If you answered "yes" to question #40 and wish to award punitive damages against Defendant Lomas Auto Mall, Inc., how much do you wish to award in punitive damages for fraud against this Defendant?

$________________

Answer question 42 only if you answered "yes" to question 8 and awarded any compensatory damages against Defendant M.D. Lohman d/b/a Lohman Motors because it committed fraud.

42. Did Defendant M.D. Lohman d/b/a Lohman Motors act maliciously, recklessly, wantonly or fraudulently in committing fraud?

X Yes ______ No

43. If you answered "yes" to question #42 and wish to award punitive damages against Defendant M.D. Lohman d/b/a Lohman Motors, how much do you wish to award in punitive damages for fraud against this Defendant?

$ 33,000.00

Answer question 44 only if you answered "yes" to question 10 and awarded any compensatory damages against Defendant USAA Casualty Insurance Company d/b/a USAA because it committed fraud.

44. Did Defendant USAA Casualty Insurance Company d/b/a USAA act maliciously, recklessly, wantonly or fraudulently in committing fraud?

______ Yes ______ No

45. If you answered "yes" to question #44 and wish to award punitive damages against Defendant USAA Casualty Insurance Company d/b/a USAA, how much do you wish to award in punitive damages for fraud against this Defendant?

$______

Answer question 46 only if you answered "yes" to question 12 and awarded any compensatory damages against Defendant Independent Auto Dealers Service Corporation, Ltd. because it committed fraud.

46. Did Defendant Independent Auto Dealers Service Corporation, Ltd. act maliciously, recklessly, wantonly or fraudulently in committing fraud?

______ Yes ______ No

47. If you answered "yes" to question #46 and wish to award punitive damages against Defendant Independent Auto Dealers Service Corporation, Ltd., how much do you wish to award in punitive damages for fraud against this Defendant?

$______

You have completed your deliberations. Have your foreperson sign this form, and you may return to open court.

Date: May 28 2009

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Foreperson